



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

INDEX.

ACCIDENT INSURANCE.

CONDITION

That insurance shall not cover entering or trying to enter or leave a moving conveyance using steam as a motive power, railroad employees excepted, does not debar a baggage checker of a transfer company from recovering 794

EMPLOYEE.

Baggage checker of a transfer company, living in one place, whose business is to board and meet trains and check baggage to other lines is a railroad employee within the terms of an accident policy . . 794

EVIDENCE.

Marks of extreme violence, recently inflicted and causing injuries resulting in death, constitute *prima facie* evidence of death "through external, violent and accidental means" 133

ACTION.

DEMURRER.

Answer alleging that note was executed for a certain consideration, and deposited with a bank, not to be delivered up until the consideration is fulfilled, is not demurrable 547

ADMIRALTY.

JURISDICTION

Of the admiralty court attaches only when the damage has been done and the injury consummated upon the water; the fact that it was done upon the ship is in itself insufficient 547

MARITIME LIEN

For damages caused by collision, takes precedence of liens for repairs and supplies 133

STEAM DREDGE

Is a subject of admiralty jurisdiction 133

WAGES

Lien for, is not lost by an authorized suit brought on behalf of the employee by the master of the vessel 547

AGENCY.

AUTHORITY TO SELL

Does not imply authority to collect the price of the goods sold . . 69

COMMISSIONS.

Real estate agent is not entitled to a commission upon a sale made by the owner to a purchaser not procured by him, unless he has been given the exclusive right to sell 133

But where, by the agent's exertion, the owner and purchaser are brought together, and the sale is subsequently made without his intervention, the agent is entitled to a commission 202

Cannot recover on a *quantum meruit* under a contract to make him sole agent to sell on commission to be in full for any service rendered 551

ILLEGAL CONTRACT.

Advances made by an agent in effecting a combination for a purpose

AGENCY—(*continued.*)

which is unlawful and against public policy, cannot be recovered back from the principal 202

ANIMALS.

OWNER

Of dog, which he looses for his own advantage, is responsible for injuries done by it to passers on the public street 202
Liability of, for injuries by vicious dog 26

POSSESSION

Of cattle running at large on a range, which is common pasturage, is constructively in the person holding the title 69

APPEAL. See LEGAL HOLIDAYS, ERROR AND APPEAL.

HABEAS CORPUS.

The Supreme Court of the United States must, upon an appeal from the action of a circuit court, examine the evidence taken in the latter court to sustain or defeat the petitioner's right to his discharge under writ of 658

APPEARANCE. See LEGAL HOLIDAYS.

ATTORNEY-AT-LAW.

DISBARMENT

Should be decreed because of an act by an attorney, whether in the discharge of the duties of his office or not, which shows such a want of professional or personal honesty, as renders him unworthy of public confidence 202

BAILMENTS.

DEPOSIT ON STORAGE

Of grain is a bailment, although under the agreement of deposit other grain may be substituted for that actually deposited 267

BALLOT BOX. See ELECTIONS.

BANKS AND BANKING.

ACCEPTANCE

Of draft may be made by a telegram promising to pay 548

ALTERATION.

Addendum to note, making the amount of interest greater than the legal rate, is material and will discharge a surety who did not sign it 621

BANKER

Includes, for purposes of taxation, one whose business is buying and selling stocks for his customers, and who employs capital in his business and has a regular place for transacting it 202

CHECK

Must be accepted before suit can be maintained against the bank, but an acceptance may be implied from the bank's charging it up to the account of the drawer 331

COLLATERALS.

Deposit of, with a bank, as security for loans, does not render the bank a gratuitous bailee, but it is liable for the want of ordinary and reasonable care in the custody of such collaterals 331

COLLECTION.

A bank receiving a draft for collection impliedly undertakes to perform such duties as are necessary for the protection of the customer 634

The principles of the law of principal and agent applied to a bank undertaking to collect 634

The question of such liability and cases thereon, considered . 637-657

The contrary doctrine that where such bank has forwarded the paper,

BANKS AND BANKING—(*continued.*)

and placed it in the hands of responsible agents, it is relieved from responsibility, stated 637-657
 Difference between paper received for collection, and for transmission for collection 640

COLLECTION OF CHECK

By draft of the paying bank, which is dishonored when presented, but which the depositor subsequently directs the collecting bank to hold a few days and then send to him, does not render the bank liable for its negligence taking the draft instead of cash 267

EXEMPTION OF NATIONAL BANK

From suit in a State court, may be waived by the bank 69

FORGED CHECK.

Money paid upon, to an innocent holder, cannot be recovered back by the bank on which such check was drawn 331, 405

INDORSEMENT.

Restrictive, on draft left for collection, notice that the bank is merely agent to collect 792

LIABILITY FOR PUBLIC MONEY.

Depository of public money cannot be held responsible for payments made by order of a committee having official charge of the fund . 267

PRESIDENT

Of bank is not such a trustee as to give a court of equity jurisdiction over him for the misappropriation of the bank's funds 202
 Knowledge by, of equities affecting notes offered by him for discount is not imputable to the bank 331

BEHRING SEA.

American rights in 625

BIBLE. See CHRISTIANITY.

BILLS AND NOTES

ALTERATION

By joint maker, without the consent of the other joint maker, will, if material, render the note void as to the latter 133

ATTORNEY'S FEE

When stipulated for in a promissory note, may be recovered without proof of the value of the services rendered 331

BLANK

For name of payee, may be filled in by any *bona fide* holder of the note within a reasonable time after it comes into his possession . 202

BONA FIDE HOLDER.

Purchaser of a note, who has knowledge that it was given in a speculative wheat deal, is not a *bona fide* holder for value 133

CONTRIBUTION

Cannot be expected from co-sureties by a surety on a promissory note, which has been renewed by a note signed by the principal and last-mentioned surety only 331

CORPORATION NOTE.

Authority of the president of a corporation to indorse a promissory note in its name, may be found from the surrounding circumstances 267

DELIVERY

Of note deposited with a bank to await performance of a condition, cannot be made until the condition is fulfilled 547

HOLDER.

Purchaser of a promissory note payable to the order of —, who fills his own name therein, is a subsequent holder within the Act of Congress of March 3, 1887, as amended by that of August 13, 1888 . 792

INDORSEMENT

Is constituted by a guaranty of payment and waiver of demand and notice, written upon the back of a promissory note 267

BILLS AND NOTES—(continued.)

INDORSER

- May maintain an action against the maker of a note, which he has taken up, notwithstanding the fact that there was no proper demand or notice of non-payment 69
- Nor is he precluded from recovering from the maker by the fact that he paid the original note, not in cash, but by the substitution of a new note of his own 69
- Of a note payable to the maker's own order, is liable thereon, although his indorsement is made prior to that of the maker . . . 405
- Who has voluntarily paid a note from which he was discharged by the negligence of the bank which held it for collection, cannot recover back from the bank the amount so paid 203
- Request by, that the holder will extend the time of payment of a note, constitutes a waiver of demand and notice 203

LEX LOCI.

- A note made in one State, and payable in another, is governed by the laws of the latter 203

PAYMENT

- Of a note made payable at the convenience of the maker, must be made within a reasonable time 203
- Time of, may be controlled by a separate written agreement . . . 268

POSSESSION

- By widow of an unindorsed note in the name of her husband does not establish her ownership in the note 331

SALE

- Of drafts by one to whom they have been indorsed in blank for collection, vests a good title in the purchaser 331

BILLS OF LADING. See COMMON CARRIERS, FIRE INSURANCE.

CHARITABLE INSTITUTIONS.

- Liability of, for negligence 209
- The effect of the motive of a founder 209
- The rule, *Respondet superior* 213

CHATTEL MORTGAGES.

ACCOMODATION INDORSER

- May be protected by a chattel mortgage given by the maker, and such mortgage will inure to the benefit of the holder of the note . 405

MORTGAGEE

- May purchase at his own sale, but the burden is on him to show the fairness of the sale 69
- Is not required to deliver to the mortgagor on his own premises, goods which he has taken into his possession after a default, but which have subsequently been redeemed 133

RETENTION OF POSSESSION

- By mortgagor of a stock of goods, with the understanding that he shall continue to sell them at retail in the ordinary course of trade, renders the mortgage fraudulent and void as to his creditors . . . 268

CHECKS. See BANKS AND BANKING.

CERTIFICATION

- Is not constituted by a verbal statement that a check is good and will be paid. 133

CHRISTIANITY.

CHRISTIANITY AND THE COMMON LAW.

- Part of the common law in England 273
- This statement excepted to by Lord Coleridge 276
- In the United States, same maxim asserted in some cases . . . 277
- Repudiated by the State governments 277
- The question considered in Arkansas 284

CHRISTIANITY—(*continued.*)

Delaware	283
Louisiana	278
Massachusetts	283
Missouri	284
New York	278-280
North Carolina	284
Ohio	278
Pennsylvania	280
South Carolina	284
Dr. Wharton's doctrine	284

PUBLIC SCHOOLS.

The adoption of, and reading any portion of the Bible in, is in violation of the Constitution of Wisconsin	286
The meaning of the word "sectarian" as used in the Wisconsin Constitution	286
The meaning of the term "sectarian instruction" in the Wisconsin Constitution	286
Reading from the Bible without comment is instruction	286
The stated reading of the Bible in, is "worship" within the constitutional prohibition	286
School room a place of worship	286
Religion as a system, cannot be taught in the common schools of Wisconsin	286
Morality and good conduct may be inculcated	286
The function of the State in relation to religion under the constitutional government, and the constitutional aspect of the Bible in the public schools considered	321-330

COMMON CARRIERS. See FIRE INSURANCE, INTERSTATE COMMERCE, RAILROADS.

BILL OF LADING

Stipulation in, for an agreed valuation to cover loss or damage from any cause whatever, does not relieve the carrier from loss by his own negligence	766
Full value may be recovered	766
The doctrine discussed, and the decisions and laws of the various States in the Union collected	771-792

CATTLE.

Condition of, at the time of shipment must be looked to, in action for damages.	548
Duty of carrier to feed and water does not arise when there is a special contract	548
Effect of a special contract	548

CONTRACTS AGAINST PUBLIC POLICY.

Agreement between rival steamboat owners to cease competition is void and will not be enforced	203
Release by a shipper of a common carrier from all loss or damage to goods in course of transportation, is void	203
Fire clause in a bill of lading, which exempts from liability for loss by fire a railroad company that has made no reduction in its freight rates in consideration of such clause, is void	268
But a clause limiting liability in consideration of a reduced rate of transportation, to a certain specified amount, in case of loss or damage through the negligence of the shipper, is invalid	268
Otherwise in Pennsylvania	405

DELIVERY TO WAREHOUSEMAN

Terminates the liability of the carrier	405
---	-----

FARE.

Bound to receive payment in legal tender notes from passenger on the train	195
Cannot refuse to accept such, and eject passenger	195

COMMON CARRIERS—(*continued.*)

Action for damages lies for such ejection 195

INSURANCE.

Insurable interest of common carrier 44

LIMITATION OF LIABILITY. See BILL OF LADING.

MOB.

Destruction by, of goods in the custody of a common carrier, render the latter liable, in the absence of any contract limiting liability . 203

PASSENGERS.

Rules and regulations for carriage of passengers, must be reasonable 191

Carrier must deal in a reasonable manner with 191

Boarding train without first paying fare, establishes the position of debtor and creditor 195

Unable to find ticket, must be allowed reasonable time to search for same. 197

Entitled to reasonable time to borrow money to pay 197

Allowed reasonable time to look for coin lost in the car, before being ejected 198

Extra charge for packages too large to carry on the lap of passenger 199

Intoxicated, expulsion of 199-200

Sick passenger 199

Passenger stricken with apoplexy 200

On a free pass. 386, 391-404

PASSENGERS' BAGGAGE.

Ladies' jewelry carried, by a man traveling alone, for transportation is not 548

PERISHABLE GOODS.

Butter received in summer for shipment South, must be shipped in such manner as to prevent injury by heat. 332

TENDER

Of five dollar gold piece, or legal tender note, not unreasonable. . 191

Conductor must be supplied with sufficient change 191

Distinction between railroads and street railways, as to reasonable tender 191

Of coins worn smooth by use 195

Of passenger's fare by third person valid 197

COMMON LAW. See CHRISTIANITY.

CONFISCATION.

Of real estate as enemy property, by proceedings *in rem*, under Act of 1862, puts the fee in abeyance 118

Proceedings *in rem*, against enemy property, are personal for punishment 118

If owner pardoned, as a personal offender, fee reverts in him . . 118

Proceedings *in rem* treated as *in personam* 128

Children of offender can recover 128

Proceedings and cases under the Act of Congress 128-132

CONGRESS. See INTERSTATE COMMERCE.

CONSTITUTIONAL LAW. See HABEAS CORPUS, INTERSTATE COMMERCE.

Theories of the time when the transformation occurs from a Territory of the United States into a State of the Union 241

The question as to when the constitutional provisions become the Supreme law and override previous constitutions and laws, considered 242

Duty of the Supreme Court on appeal from the action of a Circuit Court upon a writ of *habeas corpus* 658

CONVENTION.

Power of, is limited by the people 239

CONSTITUTIONAL LAW—(continued.)

The right to limit the powers of delegates to Constitutional Conventions, is the same as that to limit the power of Representatives in the Legislature 239

The case of *State of Montana ex rel., Thompson v. Kenney* distinguished from the Pennsylvania Case 240

DUE PROCESS OF LAW.

Trial and commitment of one already tried and acquitted, is depriving him of his liberty without 793

MARSHAL.

Any duty of a Deputy United States Marshal, which is fairly inferable from his office, when legally performed, is an act done in pursuance of a law of the United States, and entitles him to release from arrest by State authorities, performance charging the act to be a crime . 658

When powers of a Deputy United States Marshal are those of a peace officer 658

United States Marshals are ministerial officers, and part of the executive department of the government, with duties beyond those specially prescribed by acts of Congress, and arising from the Constitution itself. 586

ORDINANCE OF A CONSTITUTIONAL CONVENTION

Convenient method of separating temporary provisions from the body of the proposed Constitution 223

The force of such ordinance 223

The true function of, accompanying a proposed Constitution submitted for the approval of the voters, considered 240

POLICE POWER.

Meaning of the phrase 411

Sic utere tuo ut alienum non laedas. 413

PRESIDENT.

Authority of to protect the Judges of the United States Courts in the discharge of their duty. 658

The Department of Justice is the proper one to direct the means of protection in the use of the civil power 658

SPECIAL LEGISLATION.

Act prescribing a method of appointing municipal offices, whose provisions are limited to such cities as shall accept it at a popular election, is not special or local legislation. 268

STATE COURTS

May enjoin a citizen of the State from prosecuting suits begun in another State for the purpose of evading the laws of his own State . 268

TAXATION

Cannot be levied by a State on the rolling stock of a foreign corporation, which is used in interstate commerce. 622

CONTRACT.

AFFIRMANCE.

Any act of ratification after knowledge of facts sufficient to rescind for fraud, is an 549

MISTAKE.

Palpable error in a Government contract, through the failure to strike out a word in the printed form and insert another in its stead, will be corrected by the Court 204

PUBLIC POLICY

Forbids the organization of an association for the purpose of increasing the price or decreasing the production of a commodity in general use 719

RESTRAINT OF TRADE.

Agreement to sell an article to no one in the State except the other party to the contract, and to constitute him the exclusive agent for its sale, is not void 332

Nor is an agreement not to teach the French or German language

CONTRACT—*(continued.)*

within a designated State for a specified time unless it plainly appears that the restriction is greater than the necessity 406

THIRD PARTIES.

The consideration of a contract between two parties for the benefit of a third party is the consideration for the promise of the third party 592

Privity in contracts for the benefit of a third person is the same as that between the promisor and the promisee 592

May bring action thereon in his own name 592

The question as to the right of a third party to sue in his own name upon a contract made for his benefit discussed, and the cases in the different States thereon considered and collected 596-621

COPYRIGHT.**INFRINGEMENT.**

Where two pictures are dissimilar, the variations being more than colorable, there is no 793

CORPORATIONS. See MUNICIPAL, NATURAL GAS CORPORATIONS.**CONVEYANCE TO FOREIGN CORPORATION**

Is not rendered void by its failure to comply with the statutory conditions entitling it to do business in the State 134

FORFEITURE

Of corporate rights can be taken advantage of only by the sovereign power which granted the franchise 204

INTERNAL IMPROVEMENT.

Corporations constructed to lay out, and construct or cause to be laid out and constructed and maintained a line of piping for transporting petroleum, or other oils, are engaged in internal improvements . . 102

LIABILITY FOR STOCK TRANSFER.

A corporation cannot be held liable for the fraudulent misappropriation of stock by one who secures a transfer to himself by a properly executed power of attorney 70

MANAGERS OF SAVINGS BANK

Must exercise such oversight of the actions of officers and committees appointed by them as a reasonably prudent man would exercise in his own business 204

MINORITY STOCKHOLDERS.

Rights of, cannot be sacrificed by the majority after the expiration of the charter, through a sale of the corporation property made without their consent 204

MISAPPROPRIATION OF FUNDS

Of a corporation, when constituted 69

POWER OF CONFERRING DEGREES.

Degree of Doctor of Medicine cannot be conferred by a corporation chartered for "literary and scientific" purposes 406

STOCKHOLDERS' LIST

Cannot be copied by a stockholder for the purpose of securing aid in bringing a suit against the corporation 406

UNPAID STOCK INSTALMENTS

Do not, in the absence of a special contract, give the corporation a lien upon the stock for the amount unpaid 332

COSTS.**TAXATION.**

The costs of printing the bill and pleadings in a suit in the Circuit Court of the U. S. cannot be taxed 793

COURT. See LEGAL HOLIDAYS.**CRIMINAL LAW. See FORGERY.****CONFESSION**

Made before the coroner by a person under arrest for murder, who

CRIMINAL LAW—(*continued.*)

had been instructed as to his rights, is voluntary and may be given in evidence against him 622

JURY.

Discharge of the, by the judge on account of his own ill health, on an adjourned hearing, without the prisoner's consent, is equal to an acquittal of the prisoner 793

LARCENY

By broker, what constitutes 332

PARDON

Upon conditions which are afterwards broken, will authorize the convict's recommitment to the penitentiary, even though his original term has expired 204

CUSTOM DUTIES.

AD VALOREM.

Gun blocks planed on two sides are subject to 549

Rough hewn or sawed gun blocks only fall within classification of "manufactures of wood not specially provided for." 549

DAMAGES.

EXPECTED PROFITS

Are not a proper element of damages in an action for false representations 70

LIQUIDATED DAMAGES

Will be changed into a penalty by the waiver of complete, and the acceptance of part performance, of an entire contract 70

MEASURE OF DAMAGES

To be recovered under an oil lease, with covenant, "to continue, with due diligence and without delay, to prosecute the business to success or abandonment; and if successful, to prosecute the same without interruption, for the common benefit of the parties." 111

Under action for account, where oil has been taken by lessee under a lease for boring for salt wells and manufacturing salt, is the value of the oil at the instant it separated from the land 112

Under a lease of oil lands, reserving no rent or term, whereby the lessee is to sink a well of a certain depth in a given time with right of entry by the lessor in case of breach, the latter can only recover nominal damages, not what it would cost to sink the well 113

Measure of damages on a contract to dig an oil or gas well. . . . 115

DAYS OF PUBLIC REST. See LEGAL HOLIDAYS.

DEBTOR AND CREDITOR.

PAYMENT

By check is conditional only and defeasible on the dishonor of the check 204

Acceptance of the note of a third party for a pre-existing debt, and the surrender of the original notes which represented the debt, will discharge the original debtor 268

DECEIT.

FALSE REPRESENTATIONS

As to stock of corporation which is given in exchange for other stock, will sustain an action of deceit, although diligent inquiry has not been made as to the truth or falsity of such representations 719

DEEDS.

DELIVERY

After death of grantor conveys no title 720

INSANITY OF GRANTOR

Does not affect the title to real estate of a purchaser for value who buys from the grantee of the lunatic without notice 204

SURVIVORSHIP.

Conveyance to a man and his wife. and the survivor, gives each an

DEEDS—(continued.)

estate for life, with remainder in fee to the survivor, in Illinois . . 622

UNDUE INFLUENCE

Sufficient to warrant the setting aside of a conveyance is shown, where a father, under threats from his daughter and her husband, procures from his natural daughter a re-conveyance of property he has previously conveyed to her as a provision, such daughter acting without advice 622
The fact of a favorite son, who has remained at home and managed his father's farm for years, obtaining a conveyance from the father, under threats of leaving home, the latter being sound in mind, and acting with freedom of will, does not constitute 720

WARRANTY.

Habendum, "as a good and indefeasible estate in fee-simple," does not constitute a covenant of warranty 720
Nor does the word "grant," when used alone, constitute a . . . 720

DENTISTS

May be required by statute to obtain from a State board of examiners a certificate as a pre-requisite to continuing practice 134

DEPOT COMPANY.

Liable for torts committed upon railroad passengers by an employee of vicious temper 22
Duty of the proprietor, owner or controller of a place open to the public discussed, and the principles relating thereto examined . 24-31
Difference between liability of the owner of a vicious dog, and the doctrine as applied to human beings, lies in the fact that at common law *scienter* must be alleged and proved in action for damages by vicious dog 26

DIVORCE.

CRUEL TREATMENT

By a husband is not excused by the fact that it is the result of habitual intoxication 332

DRUNKENNESS

Does not include, so as to constitute a cause for divorce, the excessive use of morphine by hypodermic injections 332

DRUMMERS' TAX. See INTERSTATE COMMERCE.

EASEMENTS.

Defined as a right without profit, in the land of another 73
A profit *a prendre*, is a right to take or sever something valuable from the land of another 73
Distinguished from profits *a prendre*, on the ground that they are merely rights to use without profit 73
Requisites to, are a dominant and servient tenement 73
Benefit must be private, irrevocable, and unattended with direct tangible profit 73
Burden must be imposed upon corporeal property, not the owner, and be either positively, or consequentially, injurious to its enjoyment . 73
Incident to, are the right of the owner of the servient tenement to use the *locus in quo*, in every respect not interfering with the easement, and the duty of the owner of the dominant tenement to repair and amend 73, 74
Acquired by grant, prescription, and by implication of law . . . 74
The distinction between legal and equitable, created by covenant or reservation, not always observed 74
To create an easement at law, sufficient if the intention to grant be manifest 74

CREATION OF EQUITABLE.

By covenant or reservation 76-81
By parol agreement 81-82

EASEMENTS—(continued.)

ENFORCEMENT OF EQUITABLE.

- The restriction of the use of the property must not amount to a general restraint of trade 83
- Equity will not enforce a covenant where a material change has been caused in the property 33
- Nor where it would be oppressive to give effect to the covenant owing to the altered circumstances 83
- The question considered, in cases where the complainant has himself altered the condition of the property; where he has permitted breaches by other covenants; and where the change is referable to the acts of others 83-87
- The restriction must be intended to benefit the property, and not be a personal advantage of the original covenantee 87
- Equitable remedies considered 90-92

EQUITABLE.

- Defined as a right without profit which the owner of land has acquired by contract, or estoppel, to restrict, or regulate, for the benefit of his own property, the use and enjoyment of the land of another . . . 75
- Scope of not easily defined, but they either prohibit or regulate the erection of buildings, or prescribe the purposes for which real property shall or shall not be used 75

STAIRWAY.

- Under what circumstances premises may be subject to an easement in a stairway 269

EJECTMENT.

FEDERAL COURTS.

- Ejectment can only be had in the, upon the strict legal title . . 549
- The fact that a party holds a State certificate of purchase of land, though such is *prima facie* evidence of title, does not alter the case 549

ELECTIONS.

CONDUCT OF.

- In Pennsylvania, an Ordinance of a Constitutional Convention cannot contravene the law calling the Convention 239

CONGRESS.

- Doctrine that Congress can enforce State election laws with the same effect as Statutes of the United States is constitutional 367

CONSTITUTION.

- When the, defines how a right may be exercised, it prohibits the exercise of that right in some other way 839
- The first Article of the, and amendments as affecting elections, considered 338-343
- The second Article of the Constitution, considered 343

COURTS, JURISDICTION OF.

- The Federal Courts have exclusive jurisdiction over contests for seats in the House of Representatives 375

INTIMIDATION.

- The general crime of intimidation of voters, considered 347
- Intimidation of voters for electors of President and Vice President or for Representatives in Congress, considered 360

OFFENCES AGAINST THE BALLOT BOX.

- Federal Courts have jurisdiction to punish, at Congressional elections 337
- No jurisdiction in other elections 337
- Exceptions in case of discrimination on account of race, color or other condition of servitude 337
- A person offering to vote, not liable to arrest under State or National law for any cause relating to his right of suffrage 371

OFFICERS OF ELECTIONS.

- The phrase "officers of an election," examined 360

ELECTIONS—(*continued.*)

Duties devolving upon officers of elections, they owe to the United States as well as to the State 364

REGISTRATION.

Laws must be uniform, impartial and reasonable 839

Legislature has no power to require a voter to possess qualifications not required by the Constitution 839

A Statute requiring absent voter, or one who has gone into another State with the intention of voting therein, to register ninety days before election a notice of his intention to become a qualified elector; or requiring him to produce a certificate that his name has continuously been on the tax duplicate receipt, and that he is still a tax payer, in case of his absence on State or United States business, is unconstitutional 839

The failure of the State Legislature to pass a registration law, as provided by the State Constitution, has no effect upon the right to vote 839

Registration is a qualification if the Constitution so defines . . . 839

One voter cannot be required to register while another is exempt therefrom 839

The Constitutional provisions of the several States and Territories relation to the right of suffrage, and the registration of voters, collected and examined 872-920

RESULT OF

An election, declared by a legally constituted canvassing board, is given credit to by the Courts, until set aside by a tribunal of competent jurisdiction 223

REVISED STATUTES.

The provisions of the United States Statutes relating to offences against the ballot box, and their nature, considered and examined 346-349

The Statutes especially relating to suffrage considered 349-360

Divided into two classes; those relating to Federal elections, and those protecting the exercise of the suffrage generally 349

Whether the rule, that penal statutes are to be construed strictly, has any application to State and Federal laws regulating elections.

Quere 372

State laws not altered by, are adopted by Congress 364

RIGHT TO VOTE.

The general doctrine held by the Courts as to the right to vote is that the right depends upon State laws 344

Not granted or guaranteed to the citizens by the Constitution of the United States 344

Justice MILLER's opinion, *contra* 344

The Fifteenth Amendment confers the right to vote upon no one . 345

Effect of the Constitution and the Fourteenth Amendment was not to make all citizens voters. 345

A provision in a State Constitution limiting the right to male citizens does not violate the Federal Constitution 345

SUPERVISORS.

Revised Statutes referring to the appointment of supervisors, and special deputy marshals, and for holding sessions of the United States Circuit Courts 363

EMINENT DOMAIN. See NATURAL GAS CORPORATIONS.

ASSESSMENT OF DAMAGES

Must be provided for in a statute which confers upon a municipality the power to open streets through private property 70

MUNICIPAL CORPORATION

Cannot take private property for a public use, unless its charter expressly gives it that power 70

ERROR AND APPEAL. See **APPEAL.****RECORD.**

- Failure to file, by the time prescribed, renders an appeal inoperative 547
- But such failure is not a bar to another appeal within the time allowed by law 547
- Filing the transcript of the record alone, if in time, is sufficient to give the Supreme Court of the United States jurisdiction of an appeal 547

EVIDENCE.**ADMISSIBILITY.**

- Knowledge of the profits of a business and of the books is admissible on a contract to receive half the profits, where the books are not the only evidence of profit 549

ANCIENT DOCUMENTS.

- Deed more than thirty years old and coming from the proper custody, under which title has long been asserted, is admissible in evidence without the production of a power of attorney by whose authority, according to its recitals, it was executed 406

BURDEN OF PROOF.

- Alteration of check, apparent upon its face, imposes upon the holder the burden of showing how such alteration was made, although both the drawer and payee of the check are dead 406

COMPETENCY.

- Witness not a party to a suit against executors, competent to give evidence as to transactions between testator and himself, though interested in the result 796

PRIVILEGED COMMUNICATIONS.

- Communications to a law student, employed by a party to litigation to advise and assist him in his suit, are not privileged 206

EXECUTION.**DEATH OF DEBTOR.**

- Pending a levy from a Federal Court, confers no jurisdiction upon the State Courts to administer the property levied on 205

STAY.

- A Federal Circuit Court may grant a temporary stay, on its own judgment 550

EXECUTOR. See **PARTNERSHIP.****FIRE INSURANCE.****ACTION**

- Lies against a company for loss by fire where it has brought action before, and recovered its premiums after a fire has occurred, even though the policy contains a note for cessation thereof, &c 793

ARBITRATION CLAUSE.

- Making an arbitration a condition precedent to bringing suit, applies where there has been a total loss 406

ASSIGNMENT OF POLICY.

- Nontransfer of a policy of insurance on a sale of the property cannot be set up by an insurance company as a defense, where a prior assignment upon a mortgage of the property has been endorsed on the policy by the agent and approved of by the company and an assertion made that no further transfer was necessary 332-333

BILL OF LADING.

- Giving the carrier the benefit of insurance is valid 31
- But the insured forfeits all rights under a policy containing a warranty that the insurance shall not inure to the benefit of any carrier 31
- Carrier cannot acquire any rights under such policy 31
- Effect of stipulation that the carrier shall have the benefit of the owner's insurance, considered 44-47

FIRE INSURANCE—(continued.)

BY-LAWS

Of a mutual fire insurance company are binding on a member who receives a copy of them and makes no objection 333

CONDITION.

Oil drawn at dark near a lighted lamp, is within a condition making policy void if inflammable materials are kept, except certain oils, if drawn and filled during the day 549

INCREASE OF RISK

Is occasioned by a mortgage placed upon the insured property, although no right of action has accrued upon it 269

INSURABLE INTEREST.

In Indiana a husband has no insurable interest in his wife's separate property 205

Warehousemen have an, in cotton insured by them in their own name, and can recover, although the cotton was owned by another and such fact was not disclosed 794

LIABILITY.

Upon a policy covering twenty-one different pieces of property, insuring each for one-twentieth of its value, fixing the liability at such "proportion of any loss as the sum insured bears to the whole sum insured" will be fixed at one-twentieth of the total loss sustained . 622

MILL OR MANUFACTORY

Does not necessarily stand idle because its machinery is not running 622

NOTICE OF LOSS.

A request by the insured to the agent that the latter should give notice of loss, the agent replying that he had already given notice, in consequence of which no further notice was given, is a sufficient notice, although not given on behalf of the insured 134

PROOFS OF LOSS.

Wilful false statement in a proof of loss as to some pretended losses, will forfeit the entire policy, even though the actual loss exceeds the total amount of the policy 333

SUBROGATION.

The insurer's right to, considered 42-44

TRANSFER OF TITLE

By a husband through a third party to his wife of his interest in property held by them jointly, is such a change in the title as will avoid a policy insuring such property in their joint names . . . 205

Partial transfer of insured property, in which the policy holder retains an insurable interest, will not prevent recovery on the policy for a subsequent loss 269

Giving possession to a lessee, under a contract to purchase the property upon the termination of this lease, or, at his option, at any time during its continuance, is such a change of title as will render a policy upon the property void, if the transfer is not approved by the insurer 333

VACANT OR UNOCCUPIED.

Insurer is bound by a construction placed upon the words "vacant and unoccupied" by its agent, upon which the insurer has acted . 406

Factory vacated by its tenants, the key being given up to the owner's renting agents, who visit it occasionally, is 622

WAIVER.

Delivery by an agent of the company of a policy in which the fact known to such agent, that the insured building stands on leased ground is not noted in writing, constitutes a waiver of a condition requiring it to be so noted 269

May be made by a general agent of an insurance company, by parol, notwithstanding a condition in the policy that a waiver shall be void unless in writing and endorsed thereon 720

FIRE INSURANCE—(continued.)

WARRANTY.

In a fire policy that insurance shall not inure to the benefit of any carrier is not against public policy, or in restraint of trade 31
 Effect of such warranty considered and the cases thereon examined 47-49

FIXTURES.

MORTGAGEE.

To establish claim for fixtures, must show that the chattels are actually annexed, or are appurtenant to the realty; that they were applied to the uses to which that part of the realty with which they are connected was appropriated; and that they were annexed with the intention of being made a permanent accession to the freehold . . 270

RAILROAD CARS

Used in a quarry, are not fixtures 270

FOREIGN JUDGMENT.

In the absence of fraud is conclusive, if rendered by a court of competent jurisdiction, in the absence of the defendant, his counsel being present 550

FORGERY.

The Microscope and the Camera in the detection of 553
 Photographs of signatures in the Jerome Will case 553, 560-1
 The Howland Will case 562
 Signatures in 570
 A letter falsely purporting to come from the owner of a diploma requesting the custodian to deliver the diploma to bearer constitutes 134
 A State Court can try the officers of a national bank for forgery of notes made to deceive the U. S. bank examiner 71

FRAUDULENT CONVEYANCE.

Conveyance by husband to wife presumed for a debt due to her, but really to protect the property from creditors is void 793

MORTGAGE.

By a partner of his own property to carry on the firm's business is not a fraudulent conveyance 550

NOTICE.

The purchaser must have actual or constructive notice of the vendor's condition 550

GIFT.

CHARITABLE.

Validity of, for educating two persons for the ministry not affected by condition subsequent 548

INTER VIVOS.

Receipt in full for a bond given by a daughter to her father, which is found among his papers after his death, does not discharge the debt, there having been no delivery 70
 Bill of sale of a life insurance policy, made out to the niece of the insured and given to the insured's attorney, with instructions to deliver it to the niece in case of his death, is not a valid gift *inter vivos*, but may be sustained as a gift *causa mortis* 270
 Deposit of money in a saving's bank by a father to the credit of his infant son, who died sixteen years after his majority without knowledge of such deposit, the father retaining possession of the deposit book, does not constitute a gift to the son 270

GUARDIAN AND WARD.

ACCOUNT.

Compound interest may be charged, where the guardian collects and uses the ward's money, and does not attempt to account until compelled 550

HABEAS CORPUS. See **CONSTITUTIONAL LAW, APPEAL.****INTERSTATE COMMERCE.**

Agent imprisoned for selling liquor in small original packages will be released on 794

UNITED STATES MARSHAL.

A Deputy United States Marshal who kills a person assaulting a Circuit Judge while traveling his Circuit, is entitled to a writ of *habeas corpus*, when arrested by the State officials under a charge of murder 658

HUSBAND AND WIFE.**TAXES ON WIFE'S SEPARATE ESTATE**

Do not constitute a personal liability of the husband, although the property may be occupied by both as a homestead 71

INFANTS.**NEGLIGENCE**

May be attributed to a child seven years of age, but the negligence of its parents cannot be imputed to the child 623

INDICTMENT. See **INTERSTATE COMMERCE.****INNKEEPERS.** See **SLEEPING CAR COMPANIES.****LIABILITY.**

The fact that a hotel porter in charge of an omnibus at a depot, is not authorized to receive baggage or checks therefor from guests at the depot, does not relieve the hotel proprietors from liability for baggage lost by a third party, to whom the porter handed the check . . . 205
The question, who is an innkeeper, considered 257-259
He is one who keeps a house for the lodging and entertainment of the public generally, as a means of livelihood 258
Duties and liabilities of innkeepers considered and contrasted with those of a sleeping car company 259

INJUNCTION.**FRANCHISE.**

Will not be granted where defendants are making use of franchise conferred upon them by the State, in the absence of negligence and wanton disregard for the rights of others 550

JUDGMENT.

Negligence of attorney is not sufficient ground for grant of injunction to restrain a judgment 550

INTERSTATE COMMERCE.**BRIDGES.**

Congress may authorize, over navigable streams of the Union . . 474
Even after a decree for an abatement as an obstruction to navigation 477
States have entire control over internal waters, and the erection of bridges 483, 745, 800, 823
But Congress may authorize a bridge over such waters, if it form a means of Interstate Commerce 483
When the waterway lies between two or more States, and requires general regulation, Congress alone can authorize bridges . . . 483

CATTLE.

City ordinance requiring animals to be inspected before slaughtering and to be slaughtered within one mile of the city limits, is void . 133
All cattle coming from another State cannot be excluded under State laws 801
Inspection of, such a short time before slaughter as to prevent the carriage of the carcasses from one State to another, is a case where interstate commerce can only exist under general laws passed by Congress, State legislation thereon is void 801, 807

COMMON CARRIER.

A State cannot impose a capitation tax on, for alien passengers . 460

INTERSTATE COMMERCE—(continued.)

- Not responsible for immigrants and interstate passengers 461
- A State cannot prevent transportation by, of merchandise and delivery to the consignee 824
- Cannot refuse to receive intoxicating liquors, because State law prohibits their carriage into its territory 824

CONGRESS

- Must deal equally with the commerce of different States . . . 424, 491
- Express restraints upon the States under section 10 of Article one of the Constitution of the United States 425
- The power of Congress to regulate commerce includes the control of navigation 428
- Congressional regulations of commerce must be general and not local 491, 748
- The admission of a State, or the ratification of a compact between two or more States, is not a regulation of commerce 474
- May legalize an interference with commercial intercourse . . . 474
- Congress can authorize the construction of bridges, dykes, and other structures for the assistance of commerce 475
- Has exclusive power over the importation of foreign merchandise . 439
- Subjects of the Constitutional power that are, in their nature, national, or admit only of one uniform system or plan of regulation, are exclusively in the power of Congress to regulate or not 453, 466
- Responsibility to permit State regulation is upon Congress . . . 491

CONSTITUTION.

- The construction of the Constitution should be influenced in cases of doubt, by the objects sought in the adoption of the instrument, and its declaration of supremacy within its own sphere 417
- A strict construction improper 418

CONSTITUTIONAL POWER

- To regulate commerce between the States is subject only to the limits prescribed by the Constitution itself 491
- Merchandise brought from another State is under the, exclusively, until it has been sold or disposed of, so as to mingle with the common mass of property in the State into which it has been brought 491
- Trans-shipment of freight destined to another State or nation does not so break up the carriage as to remove it from the Constitutional power into the domain of the State police power 743-747
- Cannot be defeated by the number of separate carriers, or similar details 743-747
- Extends over that commerce which, though carried on within a State is a part of interstate or foreign commerce 743-747

COURTS

- Are the proper organs of government to decide whether quarantine or other preventative police regulations extend beyond the danger apprehended, into regulation of interstate commerce 801-810

DEFINITIONS.

- Every species of commercial intercourse, as well as traffic . . . 427, 433
- Includes navigation and the transportation of passengers 459
- Shipping merchandise from State to State 549
- Includes both outgoing and incoming commerce 748

DISTRICT OF COLUMBIA.

- Commerce between the States and the District of Columbia cannot be specially regulated under Congressional authority to any greater extent than that between the States 748

DRUMMERS.

- A State tax upon a drummer or person who sells by sample, catalogue or trade list, or upon one whose occupation consists in selling

INTERSTATE COMMERCE—(*continued.*)

goods, is a tax upon the goods and not a mere license to carry on the avocation 747

FISH.

Prohibition, by a territorial statute, of the exportation of fish from the territory, is void 332

FOREIGN GOODS.

The sales of, cannot be restricted further than their importations may be 439

IMMIGRATION.

A State cannot regulate, except to guard against disease or pauperism 459

IMPORTS AND EXPORTS.

Terms applicable to merchandise in trade with foreign nations and not from State to State 727

INJUNCTION.

The United States Courts will restrain an interference with commercial intercourse where it is a nuisance, or creates irreparable damage, notwithstanding the absence of Congressional action . . 474

Will issue to restrain proceedings against agents of non-resident importers selling liquors in the original packages, where the State law is a violation of the interstate commerce clause of the Constitution 794

INSPECTION LAWS

Are not derived from any power to regulate commerce 813

Are derived from the right of every State to improve the quality of domestic articles before they enter into commerce, domestic, interstate or foreign 813

Are part of State Legislation embracing everything within the State's territory which has not been placed in the care and control of the United States Government 813

Legitimate, relate to the quality of the articles, or their form, &c., as ascertained by a public officer at any reasonable place fixed by law 813

Inequitable, but legitimate, can only be remedied by Congress and not by the Courts, when the States persist in enforcing them . . 813

Requiring tobacco casks to be weighed and measured at a particular place, before transportation out of the State, are legitimate, though no provisions are enacted as to tobacco transported from place to place within the State 813

LICENSE. See TELEGRAPH.

A coasting license under the laws of the United States, nullifies a State law requiring a State license for the use of steam to propel a vessel within a harbor of the State; it is issued under the commerce power of the Union 428, 721

A license granted under the taxing powers of the United States does not necessarily authorize the carrying on of the business, trade or manufacture licensed, thereby differing from a license under the commerce powers 721

An internal revenue license, obtained by a lottery ticket dealer or a retail liquor dealer, does not authorize sales of lottery tickets or liquor; the licensee has merely paid a tax to the United States . . 721

A steamboat navigating only within a State, must have the United States license, if she carries freight and passengers ultimately destined to another State or a foreign nation 743

The agent of a distant but interstate railroad may solicit passengers without paying a State license fee 748

State laws requiring a license to sell liquors brought from a foreign nation, or another State, were considered to be valid, but now they are declared to be void so far as respects their sale by the importer in the original package 453

INTERSTATE COMMERCE—(*continued.*)

LIQUORS.

Liquor imported from another State for sale in the packages in which it has been shipped, cannot be seized under State laws, while in the possession of the consignee awaiting sale in the original packages . 491
 Ardent spirits, distilled liquors, ale and beer are the subjects of exchange, barter and traffic; that is, are subjects of commerce and not such articles as a State may subject to sanitary regulations, upon the plea of tending to spread disease, pestilence and pauperism . . . 491
 Liquor brought from another State may be taxed without discrimination, while in the original packages 735
 It is discrimination to tax drummers or resident agents, selling liquors brought from another State, at a higher rate than domestic sellers 735
 Original packages of fermented, distilled and other intoxicating liquors or liquids, are now subjected by Congress to the police power of the several States and Territories under the Wilson bill 828

NAVIGATION.

A bridge over an interstate waterway, is not necessarily incompatible with navigation 474
 Navigable waters of the United States are those used as a part of the means for interstate and foreign commerce 743

ORIGINAL PACKAGE.

An original package is one which has been brought from another State or nation and not merely one which has paid a tax to the United States 721
 The size of, is of no consequence 794
 When an original package has been used or exchanged by the breaking up for use or retail sale, and also when it has been sold by the importer in its original condition, it loses its distinctive character of an import and becomes subject to the powers of the State 439
 An original package is not broken and the law is not varied by selling liquors in the bottles in which they have been shipped from another State, although the bottles came packed in boxes and barrels, and were taken out and sold singly after their arrival 483
Contra 792
 Delivery of property to the consignee, subjects its ownership and sale in the original package, to the laws of the State where it is delivered 483
 The sale of an original package is subject to the laws of the State, as the Congressional powers over interstate commerce terminate upon the delivery of the package within the State 489
Contra 491
 The sale of liquor in the original packages in which they are brought from another State, may be prohibited under the police powers of the place of sale 490
Contra 491

PILOTS.

State laws may regulate until they come into collision with an Act of Congress 466

REGULATION OF.

The preference of the ports of one State over those of another is forbidden to Congress and not to the States, which are prevented by the commerce clause and not the ninth section of the First Article of the Constitution 797
 The discrimination between States, and not individual ports, is forbidden to Congress, and therefore incidental advantages can be given to a port in the due exercise of the regulation of commerce . . . 797
 The power to regulate extends into the jurisdiction of the States until each instance of commercial intercourse with foreign nations and among the States has terminated 425

INTERSTATE COMMERCE—(*continued.*)

The power to regulate among the States is granted in the same clause and by the same words, as that with foreign nations, and co-extensive with it 453

STATE LAWS. See POLICE POWER.

State laws affecting commerce are valid in the absence of Congressional legislation, and in the case of a subject not requiring a general regulation 445, 491

Such a subject is a dam or bridge interfering with commerce in a stream wholly within a State though flowing into an interstate body of water 445

Such laws are the exercise of the reserved police powers . . . 445

Interstate commerce, or the purchase, sale and exchange of commodities, requires a uniform system, and in the absence of Congressional action cannot be the subject of State laws 491

State authority may be exercised over subjects of interstate commerce only when a general regulation is not necessary or convenient, and Congress has not acted 491

The responsibility is upon Congress to permit State regulation of interstate traffic 491

A State may regulate its internal commerce, notwithstanding a condition of its admission into the Union, requiring freedom of the particular commerce afterwards regulated. Such condition operates only to prevent discrimination against the citizens of other States . 474

A State may proceed in the courts of the United States, to prevent or abate an obstruction to commercial intercourse growing out of State improvements 474

There is no State sovereignty which is exclusive of the constitutional regulation of commerce 474

STATE POWER.

Each State has authority over the business, trade and manufactures of its citizens, until its regulations conflict with the commerce or other constitutional powers of the United States 722

State may legislate for the safety, &c., of its inhabitants 448

Except when restrained by the Constitution 448

State may require report of passenger list from commander of vessel 448

TAXATION.

State taxation of commerce is subordinate to the Constitution of the United States 417

Imported merchandise, upon which duties have been paid, is not subject to State taxation while in the possession of the importer and in the original packages, though offered for sale 439

A tax upon the dealer is a tax upon the goods 439

Goods brought from another State may be taxed after their arrival and while in their original packages, because not imports; but there must be no injurious discrimination in tax in favor of home made articles 727

State may not tax interstate commerce or goods coming from another State because of their origin 728

State may not lay a stamp tax on bills of lading issued either for exports or merchandise consigned to a place in another State . . . 728

Of a non-resident measured by his stock in another State, or by his capacity to do business all over the United States and not merely within the taxing State, is invalid 747

A non-resident who opens a place of business and employs drummers in a State, cannot object to State taxes which are no greater than those imposed upon residents of the State; but there must be no discrimination 748

But non-resident dealers or their salesmen, maintaining no place of business in the State, cannot be taxed 748

INTERSTATE COMMERCE—(*continued.*)

- A tax imposed upon a non-resident drummer for the privilege of selling, is void 748
- A non-resident's exemption from State taxation is not a greater privilege than enjoyed by residents; the State has the power to tax residents, and in that way, the ability to prefer non-residents 748
- A State may not tax commerce among other States 748
- Pullman car business carried on within a State is taxable as a privilege 793
- State cannot collect expenses of maintaining paupers, or of exercising its police power by a tax on immigrants 460
- Auction sales of original packages of foreign origin not subject to . 810
- Otherwise where goods are produced in the Union 810
- A State may lay a general tax upon a kind of business, the subjects of which may enter into interstate and foreign commerce so long as that commerce is not made a matter of privilege 810
- Logs temporarily stopped by low water in their course through a State from one State to a third, cannot be taxed where they are stopped 821
- Property can be taxed where it is situated, though the owner is a resident of another State 821
- The products of a State may be taxed, though intended for removal to another State or country, until they are delivered to a common carrier or their ultimate passage from the State has begun 821

TELEGRAPH COMPANIES

- Cannot be taxed by a State upon messages between points within and points without such State 203

VOYAGE

- Not ended until the passengers and merchandise have been landed and disbursed in the State 459, 821

THE WILSON BILL

- 828

INTERSTATE COMMERCE ACT.

- Express company doing business as an independent concern for its own profit not within the 794
- Indictment must show that such company is a mere adjunct or bureau of a railroad, to come within the act 794
- Any statute conflicting with the Interstate Commerce Act is void . 549

INTERSTATE COMMERCE LAW. See RAILROADS.

UNJUST DISCRIMINATION

- Is not constituted by the refusal to transport stock in the cars of a certain live-stock transportation company at the same rate as in the cars of another such company, when the railroad has different contracts with the two companies and can use the cars of the latter to its own better advantage 134

JURORS.

- Mormons cannot be, in Idaho, where jurors must have all the qualifications prescribed for electors 333

JUDICIAL PROCEEDINGS. See LEGAL HOLIDAYS.

JUDGMENTS. See FOREIGN JUDGMENT.

CONFESSED JUDGMENT.

- Enforcement of, when entered without a substantial compliance with the statute authorizing such entry, may be enjoined at the suit of a third party prejudiced by such judgment 71

STAY.

- A temporary, of execution, may be granted by a Federal circuit court upon its own judgments 550

JURISDICTION. See CONSTITUTIONAL LAW, U. S. COURTS.

ALIEN

- Temporarily within the district, cannot be sued in the Federal courts by a citizen of the district 205

JURISDICTION—(continued.)

STATE AUTHORITIES

Have, over United States Marshal, arrested while on his way to serve process of the United States Commission, when 794

LANDLORD AND TENANT.

DISTRESS

May be made upon furniture leased to a tenant and used by him on the demised premises 407

FORFEITURE.

A waiver of, for non-payment of rent arises from disregard of the terms of payment 93

POSSESSION.

Where a lease for the purpose of drilling gas wells reserves the right to the lessor to till the soil, the lessor cannot, after the lessee has drilled a well, and has gas ready to flow into pipes by turning a valve, claim the lessee is not in possession, and must resort to a court of law to establish his title before a court of equity will interfere 93

A lease for sinking and operating gas wells, which stipulates "no wells to be drilled within 300 yards of the brick building" on the tract, releases the lessor's right to grant a lease of such land . . . 93

REDUCTION OF RENT

Reserved by a written lease, may be orally agreed on by the parties, 622

LEGAL HOLIDAYS.

DEFINITION.

Days set apart by public authority for religious, political or social purposes 141

EFFECT OF.

All actions not specially prohibited, may be performed as on ordinary days 141

Judicial proceedings generally valid upon 142

Ministerial acts generally valid 150

Similarly, notarial acts 152

Performance of contracts generally postponed to another day . . 153

School sessions are omitted upon the ground of conformity to custom where there are no statutory provisions 153

Detailed statement of effect upon negotiable paper 154

STATUTES OF THE STATES AND TERRITORIES.

Alabama 156 Mississippi 171

Arizona 156 Missouri 171

Arkansas 156 Montana 171

California 157 Nebraska 172

Colorado 158 Nevada 172

Connecticut 159 New Hampshire 174

Dakota 160 New Jersey 174

Delaware 161 New Mexico 174

District of Columbia 161 New York 174

Florida 162 North Carolina 176

Georgia 163 Ohio 177

Idaho 163 Oregon 177

Illinois 164 Pennsylvania 178

Indiana 164 Rhode Island 180

Iowa 165 South Carolina 181

Kansas 165 Tennessee 181

Kentucky 165 Texas 182

Louisiana 166 Vermont 182

Maine 166 Virginia 182

Maryland 167 Washington 183

Massachusetts 168 West Virginia 183

Michigan 169 Wisconsin 184

Minnesota 170 Wyoming 185

Summary of the Statutes 186

LEGAL HOLIDAYS—(*continued.*)

SUNDAYS.

Improperly classed with, in certain States 190

LEGISLATURE.

COMPENSATION OF MEMBER.

A member of the Legislative Assembly of Montana, whose compensation is fixed by law, when entitled to have the same audited and settled 223

This right enforceable by *mandamus* 223

LIBEL.

CARICATURE

In a newspaper may be libelous *per se* 333

MERCANTILE AGENCY.

Publication by reports issued and sent to its subscribers is not libelous *per se* 206

PER SE

Not sustained by a statement that the plaintiff was actuated by the stimulus of a certain compensation and not by patriotism or love of his guild 550

SIMILARITY OF NAME

Not conclusive that the person alleged to have been libeled was the subject of the libelous publication 333

LIFE INSURANCE.

ASSIGNMENT

Of a life policy, absolute on its face, by a debtor to his creditor, passes no greater interest than such sum as will pay the debt, with interest, and reimburse the creditor for whatever premiums have been paid by him 333, 407

BENEFICIARY

Named in the certificate of a mutual benefit society may be changed at the will of the insured member, provided the change is made in the manner pointed out in the certificate and by-laws of the society . . 270

Exceptions to this rule 270

INSANITY

Is such "sickness or other disability" as will entitle a member of a mutual benefit association to receive benefits 334

LIMITATION OF SUIT

Will not bar an action, where the beneficiary and the company's superintendent have agreed on the amount to be paid, and the latter has promised to pay it as soon as the money should be received from the home office 407

MUTUAL BENEFIT SOCIETY

Is subject to the same rules of law in the interpretation of its contracts as a mutual life insurance company 135

OTHER INSURANCE.

An insurance company, whose agent has informed an applicant for a policy that a certificate of membership in a co-operative society is not considered insurance, will be estopped from alleging, in defense to a suit on the policy, that such a certificate is insurance within the meaning of a question in the application as to other insurance 135

PHRASES.

"Their children," designating the beneficiaries under a wife's policy, in the event of her death, mean the children common to both the insured and his wife 407

"Related to," "relations" and "next of kin," when used in life policy, includes only relations by blood, and not connections by marriage 623

WIFE'S POLICY.

Taken out when the insured was perfectly solvent, cannot be applied to the payment of the indebtedness of the insured to the estate of his ward 407

LIMITATION.**ADVERSE POSSESSION**

Will not affect the holder of a certificate of purchase of land from the United States until his patent is issued 135

DEMAND NOTE

Is subject to the running of the statute from its date, though no actual demand has been made 206

NUISANCE.

Culvert under a railroad embankment, which injures adjoining land by discharging water on it, is a continuing nuisance, and an action of damages for maintaining such nuisance is not subject to the bar of the statute 271

LIQUOR DEALERS. See **LEGAL HOLIDAYS.****LIQUOR LAWS.** See **INTERSTATE COMMERCE.****DRUGGIST**

Authorized to sell intoxicating liquors upon a proper application, has a discretion to refuse to sell, and is not liable in an action of damages for such refusal 206

LICENSE

To sell liquors for a year is not a contract, but a police regulation, and the license fee may be raised before the expiration of the year . . 206

MINORS.

Purchase of intoxicating liquor for a minor by a bystander with the minor's own money, at the liquor seller's suggestion, is in effect a sale to the minor 271

LOUISIANA.

At the cession of the territory to the United States, the laws of Spain were in force 1

The civil law still retained 2

The Treaty of Paris naturalized all the citizens 2

First government 2

Territorial government 3

Sketch of the laws of 7

Jurisdiction and procedure of the Courts 9

Insolvent laws of the State are of Roman origin 12

Court practice 14

Peculiarities of the State laws in contrast with those of other States 19

MARSHAL. See **CONSTITUTIONAL LAW.****MASTER AND SERVANT.** See **DEPOT COMPANY.****ASSAULT AND BATTERY.**

Committed by a servant while endeavoring to take his master's personal property from the possession of a person who claims to own it, renders the master liable in damages 408

BOARD OF COMMISSIONERS.

Incorporated to furnish a city with water, is not liable for injuries received from the negligence of its servants 271

CATTLE.

Statutory lien upon, cannot be acquired by a servant who is employed to tend and feed the cattle of his master 623

CHILD OF TENDER YEARS

May recover from his master for injuries received from machinery which the master negligently ordered him to oil 623

DANGEROUS BUSINESS

Requires the employer to know the character and extent of the danger and to warn his servant specially and unequivocally 206

ELEVATOR HAND

Must be provided by his employer for a reasonable length of time with a competent instructor, and the master will be liable to his servant

MASTER AND SERVANT—(continued.)

for any injury resulting from the negligence or incompetency of such instructor 271

FELLOW-SERVANT.

Bridge watchman is not a fellow-servant with the engineer and conductor of a train 206

Train dispatcher is not a fellow-servant with train hands 335

Yard switchman is not a fellow-servant with a locomotive engineer 335

Foreman, who is ordered to remove a barge from the water, is not a fellow-servant with a laborer employed in such work 271

Carpenter, porter and stewardess of a steamship are fellow-servants 334

LATENT DEFECTS

Servant is not bound to know 206

MECHANIC'S LIENS.

REPLACING DEFECTIVE HEARTHES

In a house previously completed does not extend the time for filing a lien 623

SUB-CONTRACTOR

Is bound by an agreement of the principal contract—that the property shall be built and delivered to the owner, free of all liens 408

MERCANTILE AGENCY. See LIBEL.

Liable for a loss occasioned by an error in its published book, when such error arises in printing the book, and not in collecting information for it, notwithstanding a contract exempting it from liability for the negligence of its officers and agents 408

MINERALS.

Oil is a mineral under the Pennsylvania Act of 1850 109

Reservation of all minerals in a deed does not include petroleum . 109

MONTANA. See LEGISLATURE.

CANVASS.

Act of Congress, and Constitution and Ordinances of the Constitutional Convention of Montana, declare who shall canvass for votes at the election for the approval of the Constitution and choice of the first State officials 223

MORTGAGES.

DECLARATION

Of grantee when insufficient to convert a deed, absolute on its face, into a mortgage 623

HOMESTEAD.

Mortgagee of homestead and other real estate must exhaust all the other property before resorting to the homestead to satisfy his mortgage 71

PARTNERSHIP.

Mortgage made to, in the firm name, is valid 624

STATE.

Mortgage by, cannot be enforced, as a State cannot be sued . . . 271

MUNICIPAL CORPORATIONS.

BONDS.

Interest on municipal bonds ceases when they fall due and the means are provided for their payment 206

When issued pursuant to Act of the Legislature authorizing certain commissioners to borrow money on the faith and credit of the town, and execute bonds thereof, after a majority of the tax-payers have assented thereto, which fact is to be proved by affidavit, prevent defenses arising out of these facts 376

MUNICIPAL CORPORATIONS—(continued.)

BOOKS AND RECORDS

Not private	50
The doings of, and of their officers, and the records and files of, are open to public inspection	50
No special interest need be shown	50
Public officer has no exclusive right to examine	50
Inspection not to be charged for, unless made by officer, or his subordinates	50

CONTRACTS OF.

Exclusive contract for lighting the streets with coal gas, is not infringed by permitting electric lights on the streets and in stores	115
Exclusive contracts with gas companies are valid, but subject to the State's police power	117

HOLDERS OF BONDS OF.

Purchasers in open market, without notice, are <i>bona fide</i> holders	380
Irregularities or defects not apparent, do not prejudice the right of <i>bona fide</i> holders	381
Excess of issue over constitutional limitation of indebtedness does not invalidate	381
Irregularities in calling the election required by law does not invalidate	381
Notice of defects is not to be imputed to holder from pendency of litigation over the issue of the bonds	382
Estopped by recitals	382
In aid of railways, valid in the hands of a <i>bona fide</i> purchaser	382
Latent defects in execution are not a defense against <i>bona fide</i> holders	382
Want of power to issue the bonds affects the right of <i>bona fide</i> holders	383
The municipality is not estopped by recitals	383-384
Excess of constitutional limitation of indebtedness affects a <i>bona fide</i> holder	383
Unconstitutionality affects a <i>bona fide</i> holder	384

MUTUAL BENEFIT INSURANCE.

Insanity considered as within the phrase "sickness or other disability," so as to entitle the member to benefit	334
---	-----

NATURALIZATION.

CANCELLATION.

Certificate obtained by fraud in a State Court, will be cancelled in a Federal Court	795
--	-----

NATURAL GAS.

An article of commerce whose transportation cannot be restricted by State laws	117
Belongs to the owner of the ground, until it escapes	93
Pennsylvania Act of 1885	102

NATURAL GAS CORPORATIONS.

In Pennsylvania, are incorporated under General Laws	104
Use of public street or country highway by a natural gas corporation is an additional burden and must be compensated for	105
The owner of land may lay a pipe under the easement of a railroad company	105
Ejectment will lie against the lessee as his interest is considered corporal in Pennsylvania	105
The usual rules of negligence apply to natural gas	107
In Pennsylvania such corporations are subject to municipal regulation	107
Must make reasonable rates	109
In the absence of expert evidence, a court will not decide that natural	

NATURAL GAS CORPORATIONS—(*continued.*)

gas is included in lease to mine for petroleum, rock or carbon oil, or other valuable substances 114

EMINENT DOMAIN.

The right of, granted to natural gas corporations in Pennsylvania, is within the constitutional power of the Legislature 102

LEASES.

Construction of various 110

STREETS, USE OF.

Municipal contracts may be avoided by City Council if not warranted by charter 116

WAY, EXCLUSIVE RIGHT OF,

May be void as contrary to public policy, and imposing an unreasonable restraint upon trade 117

NATIONAL BANKS.

JURISDICTION OF FEDERAL COURTS.

May be sued, or bring suit, in the Federal Courts by or against a citizen of another State from that in which the bank is located, when the amount involved reaches the statutory limit 206

Suit by stockholder of, against its officers and directors, all of whom are residents of the same State with such stockholder, to compel the collection of a note due the bank and the payment by the directors of sums lost by reason of their alleged illegal conduct, is not within the jurisdiction of the Federal Courts 407

NEGLIGENCE.

CONTRIBUTORY NEGLIGENCE. See RAILROADS.

Not chargeable to a pedestrian who, being aware of defects in a sidewalk, abandons it for the roadway 71

Is chargeable to one who rides with another in his wagon, by the latter's invitation and not for hire, and fails to warn the driver of their approach to a dangerous railroad crossing, which he knows well and might have seen, if he had exercised ordinary care 71

Is chargeable to one who stands between two tracks of a cable company and attempts to board a car on one track without watching for cars coming in the opposite direction on the other track 272

Going upon a railroad track with knowledge that a fast train is due, is 795

Is not chargeable to a shipper of stock who uses the only platform provided by a railroad company for that purpose, although he knows it to be unsafe, but who exercises reasonable care in its use 272

Is not chargeable to one who, having been placed, through the negligence of another, in a position of danger, does not exercise coolness and presence of mind in trying to escape from such danger 334

DEFECTIVE BRIDGE.

Opened by a municipality for public travel, renders it liable for damages, although one side of the bridge may have been perfectly safe 272

FIREWORKS.

Negligent discharge of, will render the persons in charge of the display liable for the injuries thereby inflicted 272

NOTICE

Of the dangerous condition of a building is not necessary to charge the owner with liability for injuries sustained through its falling . 272

NOTARY PUBLIC.

WOMAN

Cannot be a notary public under the Massachusetts law 334

NUISANCE.

None *per se*, when the defendants are making a lawful use of their franchise 551

OIL. See DAMAGES, MINERALS.

DEFINITION.

Oil not synonymous with gas 110

PROPERTY IN

A well sunk by the owner is his exclusively 110

Not analogous to the surface owner's right in running streams of water 110

Taken out by wrong-doer, remains the property of the well owner 110

SEVERANCE OF,

From the freehold, does not divest the owner of his title 109

OYSTERS.

Natural oyster-bed as distinguished from artificial is not one planted and constituting a mass or stratum 334

PARTIES TO ACTION.

CONFLICT OF LAWS.

Administrator appointed in Maryland cannot sue in Maryland under a West Virginia statute for the death of his intestate caused by negligence in West Virginia 408

PARTNERSHIP.

CONVERSION. See SURVIVING PARTNER.

DISSOLUTION.

Decreed in equity where party has been induced to enter into through fraud or deceit, or business cannot be worked at a profit . 551

EXECUTOR

Carrying on, with the surviving partner with testator's assets as directed by the will, not liable personally for the old firm's debts . . 551

INTEREST ON CAPITAL.

Charge of, does not convert an agreement, otherwise constituting a partnership, into a relation of debtor and creditor 624

REAL ESTATE.

Purchase of, by a surviving partner under an attachment in a suit brought by him for a partnership debt, at the sheriff's sale, does not make such property real estate descendible to the heirs 795

PASSENGER. See COMMON CARRIERS.

PATENTS AND INVENTIONS.

EXPIRATION

Between the service of the bill for infringement and the return day bars relief in equity 551

LICENSE.

To use cannot be revoked, when it does not contain a revocation clause, and licensor must resort to action at law 795

REVOCATION. See LICENSE.

PEDDLING.

Statute prohibiting, is valid 405

But peddling without a license cannot be forbidden to citizens of another State 621

POLICE POWER OF THE STATES.

See INTERSTATE COMMERCE, STATE POWER.

Must yield to the commercial power of the United States 425

Not delegated to the United States, and not prohibited to the States, and consequently reserved to the States 426

Congress cannot exercise police powers within a State; though a State cannot by its police power, prevent interstate commerce . . 741

The Supreme Court of the United States will uphold State police regulations, when enacted in good faith and appropriate to the protection of life, liberty and property 741

A provision in an internal revenue act, fixing the flashing point of illuminating oil, is of no effect in a State 741

POLICE POWER OF THE STATES—(*continued.*)

- A patent for illuminating oil, is no defense for violating a State regulation forbidding the sale of such oil 741
 A State cannot collect the expenses of maintaining paupers, or of exercising its police laws, by a tax on immigrants 460

POST OFFICE.

NON-MAILABLE MATTER.

- A postal card, on which is written a demand for a debt, coupled with a threat to place the account with a lawyer, or law agency for collection, is non-mailable matter under the provisions of the Act of Congress of September 26, 1888 582
 But a demand for a debt may be written upon a postal card, if couched in respectful language, and not put in such form as to attract public attention or make it offensive to the person addressed . . . 582
 The Acts and the cases under them considered 585-592

PAYMENTS BY MISTAKE

- Made by the Post Office Department to contractors, may be recovered back at the suit of the United States 71

PRINCIPAL AND SURETY.

BOND.

- Surety is liable on bond for accounting by clerk of a District Court ordered under the practice of the Court 551

CONTRIBUTION

- Refused in equity to an administrator of the paying surety after delay of eighteen years 551

INSANITY

- No excuse for delay on the part of co-surety, where trustee appointed 551

PRIVILEGE.

SERVICE OF PROCESS

- In a civil suit upon one who has been brought from another State by requisition and, after hearing, discharged from custody, but has not left the court room, is void 408

PROCESS. See LEGAL HOLIDAYS, PRIVILEGE.

PUBLIC LANDS.

MILITARY LAND WARRANT,

- When located, vests the title at once in the holder and locator, and is payment for the land 72

TIMBER

- Unlawfully severed from public lands and purchased by a railroad company, may be recovered back from the latter at the suit of the United States 135

PUBLIC OFFICERS.

HABITUAL DRUNKENNESS

- Chargeable to an official, so as to render him liable to removal from his office under a constitutional provision, when he drinks to excess six or eight times a year 334

SECRETARY OF THE TREASURY

- May be compelled by *mandamus* to deliver a draft for his compensation to a government contractor, whose work has been approved . 624

PUBLIC OFFICES. See LEGAL HOLIDAYS.

PUBLIC SCHOOLS. See CHRISTIANITY.

RAILROADS. See COMMON CARRIER, MASTER AND SERVANT.

CONTRIBUTORY NEGLIGENCE.

- Driving for two miles on a railroad track constitutes contributory negligence, and the drunkenness of a person injured thereby does not affect the question of his negligence 135

RAILROADS—(continued.)

Is not chargeable to a passenger in the caboose of a freight train who gets up while the train is in motion and is thrown down and injured by a sudden jerking of the engine 335
 Stumbling over baggage in the aisle of a passenger car, which could have been plainly seen, will not entitle person thus injured to damages from the railroad company 335

COUPON TICKET

Over different lines does not render the company issuing it liable for injuries sustained by the holder while riding over one of the connecting lines 72

FARE. See RETURN TICKET.

Of passenger may be refused after the train has been stopped for the purpose of ejecting him for the non-payment of his fare 207

FREE PASS,

Exempting from liability, frees the company from responsibility for negligence 386

Conflict in the decisions upon the question considered 391-404

INFANT

Who is injured while trespassing upon a railroad track, cannot recover damages from the railroad company 335

INJUNCTION

Will not be granted against a railroad company upon an allegation that the running of its trains constitute a nuisance to persons residing near its tracks, unless it be shown that there is some abuse or negligent use by the railroad of its franchise 624

INTERSTATE COMMERCE.

Equity has no power to compel a railroad to enter into contract with another road for a joint through rate and routing of freight and passengers under act relating to 548

LIABILITY.

The fact that traveler's goods are lost in a sleeping car does not relieve the railroad company 266

LIVE STOCK.

Lookout for live stock upon its track need not be kept by a railroad company, in order to relieve it from liability to the owners of cattle killed by its trains 135

Statute making the killing of cattle by engines or cars *prima facie* evidence of negligence, applies to cattle yoked to a cart and in charge of a driver 207

LOOKOUT.

Engineer when not passing through an incorporated town or city or crossing a public street or highway, not bound to look out for persons on track 795

NEGLIGENCE

In the emission of sparks from a locomotive can only be rebutted by showing proper appliances were used by a skilled engineer 551

RETURN TICKET.

Condition requiring a return ticket to be stamped and signed at the place of destination before it is used for return passage, is binding upon the passenger presenting it, though he may have failed to read the condition 72

SIGNAL

Need not be given by a railroad train when approaching a private farm crossing 207

Need not be given before starting a train which has been stopped at a point not a station, for the purpose of taking on wood 624

SPEED.

In the discretion of the company when not passing through an incorporated town or passing a public street or highway 795

RAILROADS—(continued.)**STOCKHOLDER**

Is not liable for the negligence of the officers, agents or employees of a railroad company in the operation of its road, though the stockholder is another railroad corporation 385

RECORDS. See MUNICIPAL CORPORATIONS.

Right of abstractor to examine municipal 49
 Annual statement of sales for unpaid taxes, made by receiver of taxes, delivered to city treasurer, is a public record 49
 Statutes and decisions affecting the rights of abstract companies and private persons to examine, discussed and considered 60-68
 Alabama 64, 66 Minnesota 62
 Colorado 67 New Jersey 60, 65, 67
 Georgia 64, 67, 68 New York 66
 Kansas 63, 66 Pennsylvania 65
 Michigan 49, 65, 67 Wisconsin 61, 68

REGISTRATION. See ELECTIONS.**RELIGION. See CHRISTIANITY.****RELIGIOUS TEACHING. See CHRISTIANITY.****REMOVAL OF CAUSES.****ACT OF 1887.**

Cause in which some of the defendants are residents and others non-residents, wherein there is only a single controversy, cannot be removed under 796

DIVERSE CITIZENSHIP.

When a creditor's bill cannot be removed from a State Court on the ground of diverse citizenship, where one or more of the defendants are citizens of the same State as the plaintiffs 207

LIMITATION.

Extension of time to answer in the State Court does not extend the time to file a petition for removal to the Federal Court 135

LOCAL PREJUDICE

Sufficient ground for removal only when all the parties to the action on one side are citizens of the State where suit is brought, and all on the other side are citizens of other States 72

Not sufficiently established by an affidavit of the party, stating that he has reason to believe and does believe that he will not be able to obtain justice in the State Court 136

Causes may be removed from the State to the Federal Courts under Act of March 3, 1887, on the ground of local prejudice 796

SALE.**OLEOMARGARINE**

Is sold when served with a meal in a restaurant, although not eaten by the customer 207

WARRANTY

Will not be implied that a specific article of a known and recognized kind and description shall answer the purpose for which it is intended to be used 207

SCHOOLS. See CHRISTIANITY.**SCHOOL ROOM.**

A place of worship within the constitutional prohibition as contained in the Fifteenth Amendment 286

SET-OFF.**LOSS OF TRADE**

Counter-claim for, by selling inferior articles when not sustained in action for price of goods sold 552

SHIPPING.

LIMITED LIABILITY ACT

Of Congress (Act of June 19, 1886) is constitutional 134

NEGLIGENCE.

Vessel using fog horn sounded by the breath, instead of by bellows, is guilty of negligence 795

Vessel running at the rate of seven knots an hour, in a frequented part of the ocean, and in a thick fog, is guilty of 795

PHYSICIAN.

Failure of a freighting vessel to provide is not a neglect of duty . 552

SLANDER.

PUBLIC OFFICERS.

What words, when spoken of a public officer, are actionable, without averment of special damage, when they impute positive incapacity or misconduct 335

SLEEPING CAR COMPANIES

Liable to the same responsibilities and obligations as inn-keepers, in respect to passengers' goods 251

The security of travelers requires such a rule 251

The previous cases establish a contrary rule 259-265

The difference between, and an inn-keeper pointed out, and the cases examined 265

The question considered with reference to a steamboat owner and the cases examined 265

Not an inn "on wheels" 266

STATUTES. See LEGAL HOLIDAYS.

Right conferred by, upon "all persons," is conferred upon any person 50

STATUTE OF FRAUDS

Does not apply to contract to support a child until of age 796

STEAMBOAT OWNER. See SLEEPING CAR COMPANIES.

The question as to the liability of, as an inn-keeper, considered 265-266

STREETS.

Pedestrian injured by a dangerous nuisance which the city allows a private corporation to maintain in its street, may recover damages from the city 324

SUNDAY LAWS. See LEGAL HOLIDAYS.

RUNNING TRAINS

On Sunday is not illegal in West Virginia 335

WILL

Made on Sunday is valid 335

TAXATION. See INTERSTATE COMMERCE.

EXEMPTION.

A school using its receipts for maintenance is within the exemption of a statute relieving the real estate of scientific institutions occupied by them for the purposes for which they were incorporated . . . 136

TELEGRAPHS.

DELAY

In the transmission of a message, calling the person to whom it is addressed to a dying relative, is not excused by the fact that the telegraph company was not informed of the relationship of the parties 208

HIGHWAY.

Erection of telegraph poles and stringing of wires along a highway already dedicated to the public constitutes an additional servitude for which additional compensation must be made to the owners of the soil 720

TELEGRAPHS—(continued.)

LICENSE TAX

Cannot be imposed upon a telegraph company engaged in interstate commerce to a greater amount than is necessary to defray the cost of supervising and controlling its wires and poles for the protection of property and person 136

MENTAL SUFFERING

Will not of itself support an action of damages against a telegraph company for the failure to deliver a message 136

RAILROAD COMPANY

May construct a telegraph line over its right of way for its own use and benefit in the operation of its road, without rendering itself liable to the land owners for additional compensation, but not so when the line is constructed for a different purpose 208

UNFAVORABLE ATMOSPHERIC CONDITIONS

Do not excuse the dropping out of words in the transmission of a telegraphic message 272

TENDER. See COMMON CARRIERS.

A VALID.

Exact amount must be offered 195
Change must not be required 195

WAIVER.

A payee, by saying it will be useless to exhibit the money to him, when such money is present, waives his right to insist that no proper tender was made 93

TONNAGE TAXES.

A State law, authorizing a municipality to collect wharfage from vessels laden with the products of other States and countries, while such dues are not demanded from vessels laden with the same articles when produced in the State, is a regulation of interstate-commerce, and is void 817

The denial to the States, of the power to lay any duty of tonnage without the consent of Congress, was intended to protect the freedom of commerce, and therefore does not invalidate legitimate wharf dues measured by the capacity of the vessels using the wharves 817

Local taxation of vessels by their capacity instead of by value, is unconstitutional 817

TRADE MARKS.

INFRINGEMENT

Is made out if the defendant's imitations lead to the conclusion that they were methodically intended 796

The words "Warren Hose Supporter," used in connection with a hose supporter connected with a stocking and placed as labels on boxes containing hose supporters, are to be protected as 796

JURISDICTION.

Suit cannot be brought in the Circuit Court for infringing trade marks used in foreign commerce under Act of March 3, 1881, both parties being in the State 796

NAME

Of place where goods are manufactured may be used as a trade mark in combination with other words 208

Of manufacturer may be used as a trade mark, but not to the exclusion of the right of another person of the same name 208

"LIGHTNING"

May be used as a trade mark descriptive of hay knives 335

OLD MACHINES

May be bought by a manufacturer, repaired, repainted and sold again, without removing the original trade mark 336

"SINGER"

Cannot be used as a trade mark for sewing machines 336

TRADE MARKS—(*continued.*)

"TYCOON"

Cannot be used as a trade mark for tea 336

TRESPASS.

SEIZURE

By a mortgagee under a chatte. mortgage void for usury or fraud, is a trespass 552

USURY.

ACTION

Lies to recover back the difference between the usurious interest paid, and the amount legally due 552

NOTE

Given for certain amount and interest, a less amount being really loaned, is void as usurious 552

VENDOR AND VENDEE.

IMPROVEMENTS

Put on the property by the vendee in possession are not compensated for when the wife of the vendor refuses to join in the deed for their joint property 552

UNITED STATES COURTS.

JURISDICTION.

Not conferred upon the Circuit Courts, in actions against the State, involving questions arising under the Constitution of the United States, or by the Act of Congress of March 3, 1875 548
Cannot be conferred upon such courts, in actions against a State with such State's consent, in matters arising out of the Constitution of the United States 549

Supreme Court of United States has no jurisdiction to review the decision of a State Court that a party was not liable in damages when acting within the scope of judicial authority conferred on him by an Act of Congress 270

Have no jurisdiction of proceedings *in rem*, taken under a State statute against the property of a non-resident defendant, who has not been personally served or appeared 130

Have jurisdiction of a suit to set aside a sale of lands forfeited to a State, the parties being citizens of different States, and may avoid a deed for such lands, although made in pursuance of the order of the State Court 134

NO MAN'S LAND

Is subject to the criminal jurisdiction of the United States Court for the Eastern District of Texas 134

UNITED STATES MARSHALS. See CONSTITUTIONAL LAW.

May be arrested by the State authorities on a charge of forgery, while on his way to serve process issuing from a United States Commissioner, if the arrest was not intended to interfere with the service of the process 794

WARRANTY.

IMPLIED.

None of quality when the goods are to be as made for other persons 552

WATER RIGHTS.

POLLUTION OF SPRING

By the leakage of oil stored on adjoining premises entitles the owner of the spring to damages from the person thus storing the oil . . 336

WHARFAGE. See TONNAGE TAXES.

WILLS.

Bequest to a corporation not in existence, but to be subsequently created by legislative enactment, is valid 748

CHARITABLE

Use is created by a bequest for the education of "two young men for all coming time" for the Christian ministry 748

COMMUNITY PROPERTY.

Devise to a wife of one-half of all the testator's property, gives her one-half of his moiety of the community property 72

CONTINGENT REMAINDER.

Created by devise of remainder to daughter's children if living at her death 72

CONTRACT TO MAKE WILL.

What evidence is insufficient to establish 336

DEVISE

Of all the estate the testator is to inherit after her father's death, will pass her interest in land inherited from her mother, but subject to her father's curtesy 336

DEVISE OVER.

After a devise to testator's wife, coupled with a power of alienation, will take effect upon any property of the testator not disposed of by her before her death 720

When valid 720

ERASURE

Of a word by the testator in a will, rendering it illegible, and writing another word above it, is inoperative to change or revoke the original provision 624

LAPSE OF LEGACY

Where the legatee dies in the testator's life time, will not be prevented by the legatee bequeathing to his wife his expectant legacy . . . 136

LEAD PENCIL WRITING,

Signed by testator's first name only, may be admitted to probate as a will 208

VESTED ESTATE.

When given 136

WRITS.

Service on a non-resident may be made by publication, where the bill seeks to establish a trust of real estate, even though an account and other relief is also prayed for 795